IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPETMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 9374 of 2004

Between:

Dasari Ranga Rao S/o late Nagabhushanam
D.No. 4-373, Ring Road, Ramavarappadu, Vijayawada, Krishna District.

..... PETITIONER

AND

1 The Sub-Collector, Vijayawada, Krishna District.
2 The Mandal Revenue Officer (Rural) Vijayawada, Krishna District.
3 S. Lakshmi Devi W/o. S. Vishnu Rao
Flat no.103, Sarada Apartments, Bhommangalli, Barkatpura,

Hyderabad.
4 K. Saraswati W/o K. Gopala Krishna
Flat no.103, Sarada Apartments, Bhommangalli, Barkatpura,

Hyderabad.
5 K. Ravindranath S/o late Sivaramaiah
R/o Vidyut Colony, H.No.9, Ring Road, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly in the nature of Writ of mandamus declaring the action respondents 1 & 2 seeking steps to demolish the house of the petitioner bearing house No.4-373 in R.S.130 near Cococola Company, Ramavarappadu, Vijaywada Rural as arbitrary and violative and consequently declare that the respondents cannot take any steps to demolish the house at No.4-373 in R.S.130 near Cococola Company, Ramavarappadu, Vijayawada Rural to

dispossess him.

Counsel for the Petitioner:MR. BHAVANI SHANKAR, REPRESENTING MR.K.S.MURTHY

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent Nos.3 and 4:MR. P. GOVIND REDDY

Counsel for the Respondent No.5: None appeared

The Court made the following :

ORDER:

Respondents 3 and 4 herein filed a land grabbing case being L.G.C.No.74 of 2000 on the file of the Special Court constituted under A.P.Land Grabbing (Prohibition) Act, 1982 (hereafter called, the Act). The same ended in the Special Court passing an order against petitioner. Thereafter, respondents 3 and 4 moved first respondent, who issued notice dt.5.2.2004 in Form- V under Rule 15 of the A.P.Land Grabbing (Prohibition) Rules, 1988 (hereafter called, the Rules) directing the Special Deputy Tahsildar and Special Revenue Inspector in the office of Mandal Revenue Officer, Vijayawada, to take possession of the land from the petitioner. The petitioner approached the Special Court by filing an application to set aside the *ex parte* order and he also filed I.A.No.124 of 2004 for condonation of delay in filing such application. The petitioner states that the Special Court by order dt.16.4.2004 condoned the delay in filing application to set aside the *ex parte* order. The petitioner therefore complains that even while the said application is pending before Special Court respondents 1 and 2 are taking action to demolish the house bearing No.4-373 in R.S.No.130 near Cococola Company, Ramavarappadu, Vijayawada Rural. Alleging that it would be difficult to get interim orders from the Special Court, during summer vacation he moved the summer vacation Court on 31.5.2004.

This Court while admitting the Writ Petition by order dt.1.6.2004 in W.P.M.P.No.12015 of 2004 granted stay of demolition of house No.4-373 in R.S.No.130 near Cococola Company, Ramavarappadu, Vijayawada. Respondents 3 and 4 moved this Court by filing W.V.M.P.No.2213 of 2004 for vacating the interim order dt.1.6.2004. In the counter affidavit accompanying the W.V.M.P., it is stated that the Special Court under the Act allowed L.G.C.No.74 of 2000 on 24.11.2003 recording a finding that respondents 3 and 4 are owners of the property and that the writ petitioner and others are land grabbers who are in possession without lawful right. The petitioner also engaged an Advocate for contesting the case before Special Court and the Special Court passed an order on merits. The allegation that the Special Court passed *ex parte* order is denied. Though interlocutory matters are

coming up for hearing, having regard to the submissions made by counsel for the petitioners and the counsel for contesting respondents, the Writ Petition is being disposed of at the interlocutory stage.

Learned counsel for the petitioner, Sri Bhavani Shankar submits that the application filed by the petitioner before the Special Court for setting aside the *ex parte* order dt.24.11.2003 in L.G.C.No.74 of 2000 is pending and if the respondents 1 and 2 evict the petitioner from the property he would suffer irreparable loss and injury. **Per contra,** learned counsel for respondents 3 and 4, Sri P.Govind Reddy submits that the Special Court passed order on merits and it is not an *ex parte* order. He further submits that the application moved by the petitioner for setting aside the order dt.24.11.2003 in L.G.C.No.74 of 2000 was already dismissed by the said Court on 9.9.2004 and therefore, respondents 1 and 2 should be allowed to take possession and deliver the same to respondents 3 and 4 in accordance with Rule 15 of the Rules.

The only point that falls for consideration is whether first respondent was justified in issuing notice in Form V directing Special Deputy Tahsildar and Special Revenue Inspector to take possession of the land from the petitioner herein.

A copy of the judgment dt.24.11.2003 in L.G.C.No.74 of 2000 made by Full Bench of Special Court is annexed to the counter affidavit filed by respondents 3 and 4. A bare look at the same would show that it is not an *ex parte* order and the petitioner herein who was arrayed as fourth respondent was represented by a Counsel. The said order shows that respondents 3 and 4 herein examined P.W.1 and marked Exs.A.1 to A.5 whereas seven respondent therein, including the petitioner herein, did not lead any oral and documentary evidence. The Full Bench of the Special Court considered various issues framed and delivered the judgment on merits. Therefore, the contention that Special Court passed *ex parte* order cannot be expected.

Secondly, learned counsel for the petitioner, Sri Bhavani Shankar does not deny or dispute that application moved by petitioner for setting aside order of Special Court is already dismissed on 9.9.2004. Therefore, nothing prevents the revenue authority to enforce judgment of the Special Court. Under Rule 15 of the Rules, when a direction is issued by the Revenue Divisional Officer in Form–V to any Revenue Officer not below the rank of Revenue Inspector, possession of the land grabbed has to be taken and delivered to the person to whom it is to be given as per the orders of the Special Tribunal. In case, the persons in possession of the grabbed land failed to deliver possession voluntarily to the Revenue Officer or the official deputed by the Revenue Divisional Officer, it will be open to such officer to take possession on behalf of the Revenue Divisional Officer after removing any obstruction or unauthorized occupants by taking police assistance. It only means that every person in occupation of the land grabbed is liable to deliver possession.

The Writ Petition is devoid of merit and is accordingly dismissed without any order as to costs. The interim order passed by this Court shall stand vacated.

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(V.V.S.RAO, J)

22.9.2004

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To

1 The Sub-Collector, Vijayawada, Krishna District.
2 The Mandal Revenue Officer (Rural) Vijayawada, Krishna District.
3 2CCs to G.P. for Revenue, High Court Bldgs, Hyderabad (OUT)

4 2CD copies